

Office of the County Auditor
Auditor's Analysis

Council Bill No. 58-2020

Introduced: October 5, 2020

Auditor: Owen Clark

Fiscal Impact:

We anticipate an indirect fiscal impact from this legislation in the form of increased County transfer and recordation taxes from the sale of reconfigured preservation parcels, sized as small as 3 acres, with residential dwellings or development rights attached to them.

We verified with the Department of Planning and Zoning (DPZ) that the resulting 3-acre parcel would allow for one dwelling unit and could be sold. We believe the resulting smaller residential preservation parcels may be more easily sold as residential dwellings or developable land than the larger preservation parcels (which will have existed before this legislation).

Purpose:

The purpose of this legislation is to amend the Howard County Zoning Regulations to allow adjoining preservation parcels that were created through the cluster subdivision or density exchange option regulations to be combined, assuming the reconfiguration better facilitates the purpose of the preservation parcel.

The main items addressed include:

- The ability to combine adjoining preservation parcels without the restriction that the reconfigured parcels each remain at least 20 acres in size.
- Prohibiting reconfigurations that create additional or new residential development rights.
- Requiring affected deeds of easement to be amended to reflect the land reconfiguration and all property to remain subject to pre-existing easement provisions.

Other Comments:

The Department of Planning and Zoning issued a Technical Staff Report for Zoning Regulations Amendment (ZRA) 190 on May 21, 2020, indicating their general approval of this legislation's text. The report indicated that:

- It is in harmony with the General Plan, since it enhances flexibility for the agricultural community by relaxing restrictions on farm expansions on preservation parcels.
- It requires text amendments to ensure it applies to preservation parcels both created through the subdivision process and those created through the density sending option.

The Howard County Planning Board issued a recommendation for approval of ZRA-190 on July 23, 2020. A noted discussion point in the recommendation was how the ZRA may allow more flexibility to make use of existing preservation parcels.

Per the Administration:

- The agricultural easements that have been dedicated to the County will have to be approved by the Agricultural Planning Board prior to their reconfiguration.
- All preservation parcels would require the consensus of its easement holders prior to reconfiguration and still be governed by the requirements of the easement.
 - Other easement holders could include the Maryland Environmental Trust or a private entity. There are no federal agricultural easements in Howard County.
- An exact accounting of the affected parcels is not currently available since it is not known which of them are adjoining and have development rights.
 - However, DPZ identified a total of 659 parcels and 11,712 acres of preservation easements that represent “potentially impacted projects.” *A listing of these parcels can be provided to the Council upon request.*
- There are two specific parcels that are associated with this ZRA. Please see the details of each proposed reconfiguration in **Attachment A**.

Attachment A

Per the Administration, the parcels associated with CB58-2020/ZRA-190 are:

1) The McDaniel Property (Tax Map 34 Parcel 117)

The images in **Attachment B** show the proposed reconfiguration as noted below.

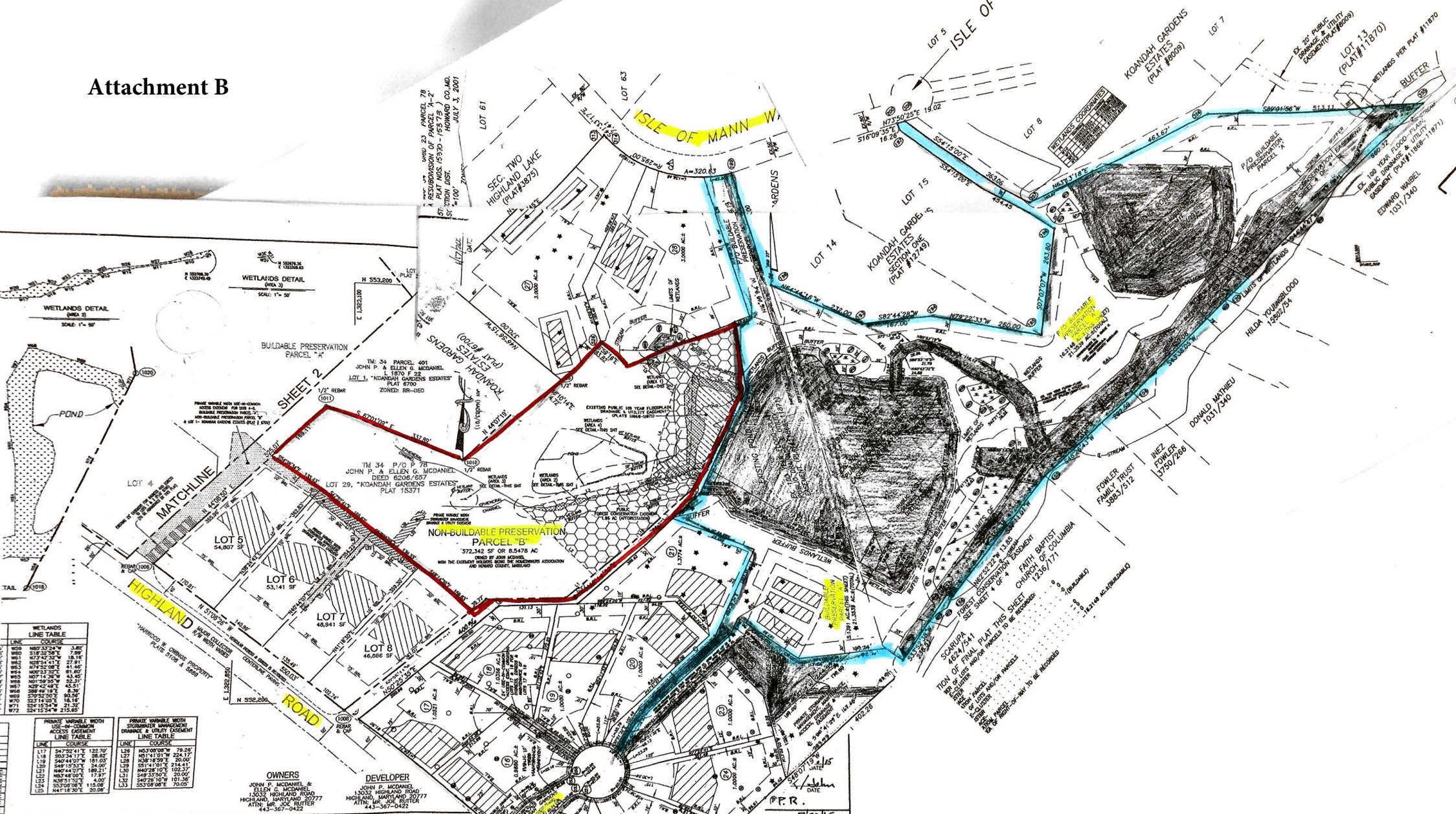
The two parcels to be combined are the McDaniel Property Non-Buildable Preservation Parcel B (F-14-021) and Koandah Estates Buildable Preservation Parcel A. The request is to combine these two parcels into one non-buildable parcel (Non-buildable Preservation Parcel C) except for 1.3 acres of the Koandah Estates Buildable Preservation Parcel A, which is proposed as a 1.3 acre buildable lot (Lot 9). Lot 9 would adjoin the property boundary of Koandah Estates Open Space Lot 22. This is where a new dwelling unit could be constructed. There are no existing structures on either preservation parcel.

2) Two properties on Penn Shop Road – Harrison Property (Tax Map 6, Parcel 19) and Crowder Property (Tax Map 6, Parcel 86)

See Map below: In this scenario, all but the 3 acres surrounding the existing house (indicated by the red line) of the 37-acre parcel would be shifted to the 52-acre parcel. The result would be an 86 +/- acre farm and a 3-acre residential lot, still under the agricultural conservation easement.



Attachment B



EXISTING PLATS FOR MCDANIEL AND KOANDAH GARDENS ESTATES

F-14-021 F-02-04

WETLANDS LINE TABLE

LINE	COORDINATES
W81	518°22'38.7"E 28.27'
W82	518°22'58.7"E 29.99'
W83	518°23'18.7"E 31.71'
W84	518°23'38.7"E 33.43'
W85	518°23'58.7"E 35.15'
W86	518°24'18.7"E 36.87'
W87	518°24'38.7"E 38.59'
W88	518°24'58.7"E 40.31'
W89	518°25'18.7"E 42.03'
W90	518°25'38.7"E 43.75'
W91	518°25'58.7"E 45.47'
W92	518°26'18.7"E 47.19'
W93	518°26'38.7"E 48.91'
W94	518°26'58.7"E 50.63'
W95	518°27'18.7"E 52.35'
W96	518°27'38.7"E 54.07'
W97	518°27'58.7"E 55.79'
W98	518°28'18.7"E 57.51'
W99	518°28'38.7"E 59.23'
W00	518°28'58.7"E 60.95'

PRIVATE VARIABLE WIDTH ACCESS EASEMENT LINE TABLE

LINE	COORDINATES
L17	347°02'41"E 122.70'
L18	353°34'17"E 158.25'
L19	340°45'07"E 191.03'
L20	340°44'57"E 192.41'
L21	340°44'37"E 198.21'
L22	340°44'17"E 204.01'
L23	340°43'57"E 209.81'
L24	340°43'37"E 215.61'
L25	340°43'17"E 221.41'
L26	340°42'57"E 227.21'
L27	340°42'37"E 233.01'
L28	340°42'17"E 238.81'
L29	340°41'57"E 244.61'
L30	340°41'37"E 250.41'
L31	340°41'17"E 256.21'
L32	340°40'57"E 262.01'
L33	340°40'37"E 267.81'

OWNER'S CERTIFICATE

WE, JOHN P. MCDANIEL AND ELLEN C. MCDANIEL, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, ADOPT THIS FINAL PLAT OF SUBDIVISION AND IN CONSIDERATION OF THE APPROVAL OF THIS FINAL PLAT BY THE DEPARTMENT OF PLANNING AND ZONING, ESTABLISH THE HUMAN BUILDING RESTRICTION LINES AND GRANT UNTO HOWARD COUNTY, MARYLAND, ITS SUCCESSORS AND ASSIGNEES: 1) THE RIGHT TO LAY, CONSTRUCT AND MAINTAIN SEWER, DRAIN, WATER PIPES AND OTHER MUNICIPAL UTILITIES AND SERVICES IN AND UNDER ALL ROADS OR STREET RIGHTS-OF-WAYS AND THE SPECIFIC EXISTENCE AREAS SHOWN HEREON; 2) THE RIGHT TO REQUIRE DEDICATION FOR PUBLIC USE OF THE BEDS OF THE STREETS AND/OR ROADS, THE FLOOD PLAINS AND OPEN SPACE WHERE APPLICABLE AND FOR GOOD AND VALUABLE CONSIDERATION, HEREBY GRANT THE RIGHT AND OPTION TO HOWARD COUNTY TO ACQUIRE THE FEE SIMPLE TITLE TO THE BEDS OF THE STREETS AND/OR ROADS AND FLOOD PLAINS, STORM DRAINAGE FACILITIES AND OPEN SPACE WHERE APPLICABLE; 3) THE RIGHT TO REQUIRE DEDICATION OF WATERWAYS AND DRAINAGE CASSEMENTS FOR THE SPECIFIC PURPOSE OF THEIR CONSTRUCTION, REPAIR AND MAINTENANCE; 4) THAT NO BUILDING OR SIMILAR STRUCTURE OF ANY KIND SHALL BE ERRECTED ON OR OVER THE SAID EXISTENCES AND RIGHTS-OF-WAYS.

WITNESS OUR HANDS THIS 28 DAY OF MAY, 2015

John P. McDaniel *Ellen C. McDaniel*

DEVELOPER
JOHN P. MCDANIEL
13032 HIGHLAND ROAD
HIGHLAND, MARYLAND 20777
ATTN: LEO C. RUTTEN
410-367-0422

DEVELOPER
JOHN P. MCDANIEL
13032 HIGHLAND ROAD
HIGHLAND, MARYLAND 20777
ATTN: LEO C. RUTTEN
410-367-0422

OWNER'S CERTIFICATE

I HEREBY CERTIFY THAT THE FINAL PLAT SHOWN HEREON BY HOWARD H. JORDAN AND EDITH E. JORDAN TO JOHN P. MCDANIEL AND ELLEN C. MCDANIEL IS THE TRUE AND CORRECT COPY OF THE LAND RECORDS OF HOWARD COUNTY, MARYLAND, AS RECORDED THEREIN ON APRIL 21, 2002 AND RECORDED AGAIN IN THE LAND RECORDS OF HOWARD COUNTY, MARYLAND, UNDER BOOK 60547.

I HEREBY CERTIFY THAT ALL MEASUREMENTS ARE IN FEET AND INCHES OR SHALL BE IN PLACE PRIOR TO THE RECORDING OF THIS PLAT AND THAT ALL MEASUREMENTS OF THE STREETS OF THE SUBDIVISION BY HOWARD COUNTY AS SHOWN, BE ACCORDING TO THE HUMAN BUILDING RESTRICTIONS AND WITH THE HOWARD COUNTY SUBDIVISION REGULATIONS.

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED BY ME OR UNDER MY SUPERVISION AND RESPONSIBILITY AND THAT I AM A FULLY LICENSED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 287, EXPIRATION DATE 2027 OR 2014.

Thomas M. Vogel
43015
THOMAS M. VOGEL
PROPERTY LINE SURVEYORS, INC. REG. NO. 287

ROBERT H. VOGEL ENGINEERING, INC.
ENGINEERS • SURVEYORS • PLANNERS
SUITE 300, 11711 MARKET ST. #1043
CLAYTON, MD 21036 761-218-2121/2651

SCALE: 1" = 100'

DATE: APRIL 30, 2015

SHEET 3 OF 3

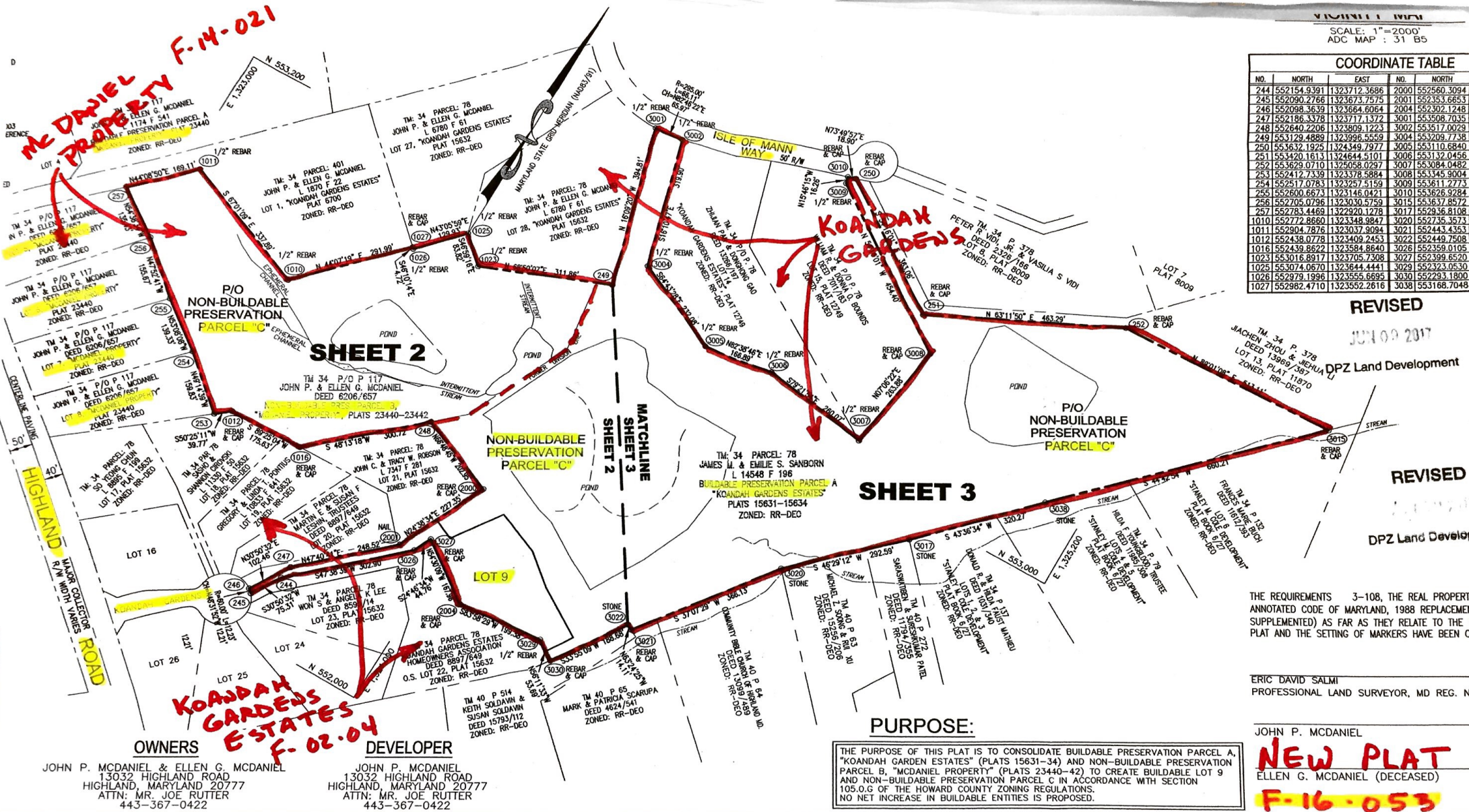
F-14-021

F-14-021 F-02-04

SCALE: 1"=2000'
ADC MAP : 31 B5

COORDINATE TABLE					
NO.	NORTH	EAST	NO.	NORTH	
244	552154.9391	1323712.3686	2000	552560.3094	1
245	552090.2766	1323673.7575	2001	552353.6653	1
246	552098.3639	1323664.6064	2004	552302.1248	1
247	552186.3378	1323717.1372	3001	553508.7035	1
248	552640.2206	1323809.1223	3002	553517.0029	1
249	553129.4889	1323996.5259	3004	553209.7738	1
250	553632.1925	1324349.7977	3005	553110.6840	1
251	553420.1613	1324644.5101	3006	553132.0456	1
252	553629.0710	1325058.0297	3007	553084.0482	1
253	554212.7339	1323378.5884	3008	553345.9004	1
254	552517.0783	1323297.5159	3009	553611.2773	1
255	552600.6673	1323146.0421	3010	553626.9284	1
256	552705.0796	1323030.5759	3015	553637.8572	1
257	552783.4469	1322920.1278	3017	552936.8108	1
1010	552772.8660	1323348.9847	3020	552735.3573	1
1011	552904.7876	1323037.9084	3021	552443.4353	1
1012	552438.0778	1323409.2453	3022	552449.7508	1
1016	552439.8622	1323584.8640	3026	552359.0105	1
1023	553016.8917	1323705.7308	3027	552399.6520	1
1025	553074.0670	1323644.4441	3029	552323.0530	1
1026	552979.1996	1323555.6695	3030	552293.1800	1
1027	552982.4710	1323552.2616	3038	553168.7048	1

Mc DANIEL PROPERTY F-14-021



REVISED

JUL 09 2017

DPZ Land Development

REVISED

DPZ Land Development

THE REQUIREMENTS 3-108, THE REAL PROPERTY ANNOTATED CODE OF MARYLAND, 1988 REPLACEMENT (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING PLAT AND THE SETTING OF MARKERS HAVE BEEN COMPI

ERIC DAVID SALMI
PROFESSIONAL LAND SURVEYOR, MD REG. NO. 2

JOHN P. MCDANIEL

NEW PLAT
ELLEN G. MCDANIEL (DECEASED)

F-16-053

PURPOSE:

THE PURPOSE OF THIS PLAT IS TO CONSOLIDATE BUILDABLE PRESERVATION PARCEL A, "KOANDAH GARDEN ESTATES" (PLATS 15631-34) AND NON-BUILDABLE PRESERVATION PARCEL B, "MCDANIEL PROPERTY" (PLATS 23440-42) TO CREATE BUILDABLE LOT 9 AND NON-BUILDABLE PRESERVATION PARCEL C IN ACCORDANCE WITH SECTION 105.03 OF THE HOWARD COUNTY ZONING REGULATIONS. NO NET INCREASE IN BUILDABLE ENTITIES IS PROPOSED.

OWNERS

JOHN P. MCDANIEL & ELLEN G. MCDANIEL
13032 HIGHLAND ROAD
HIGHLAND, MARYLAND 20777
ATTN: MR. JOE RUTTER
443-367-0422

DEVELOPER

JOHN P. MCDANIEL
13032 HIGHLAND ROAD
HIGHLAND, MARYLAND 20777
ATTN: MR. JOE RUTTER
443-367-0422

OWNER'S CERTIFICATE

JOHN P. MCDANIEL AND ELLEN G. MCDANIEL, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, ADOPT THIS SUBDIVISION, AND IN CONSIDERATION OF THE APPROVAL OF THIS FINAL PLAT BY THE DEPARTMENT OF PLANNING AND PUBLIC WORKS OF THE STATE OF MARYLAND, WE HEREBY GRANT TO HOWARD COUNTY, MARYLAND, ITS SUCCESSORS AND ASSIGNEES, THE RIGHT TO LAY, CONSTRUCT AND MAINTAIN SEWERS, DRAINS, WATER PIPES AND OTHER MUNICIPAL UTILITIES AND UNDER ALL ROADS OR STREET RIGHTS-OF-WAYS AND THE SPECIFIC EASEMENT AREAS SHOWN HEREON; 2) THE QUIRE DEDICATION FOR PUBLIC USE OF THE BEDS OF THE STREETS AND/OR ROADS, THE FLOOD PLAINS AND OPEN

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE FINAL PLAT SHOWN HEREON IS CORRECT; THAT IT IS A SUBDIVISION OF (1) THE LAND CONVEYED BY JAMES M. SANBORN AND EMILIE S. SANBORN TO JOHN P. MCDANIEL BY DEED DATED DECEMBER 19, 2012 AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND IN LIBER 14548 FOLIO 196 AND (2) PART OF THE LAND CONVEYED BY JOHN P. MCDANIEL AND ELLEN G. MCDANIEL TO JOHN P. MCDANIEL AND ELLEN G. MCDANIEL, BY DEED DATED MAY 31, 2002 AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND IN LIBER 6206 FOLIO 657.
I ALSO CERTIFY ALL MONUMENTS ARE IN OR WILL BE IN PLACE PRIOR TO THE ACCEPTANCE OF THE STREETS IN THE SUBDIVISION BY HOWARD COUNTY AS SHOWN, IN ACCORDANCE WITH

RECORDED AS PLAT NO. _____ ON _____
AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND.

PLAT OF RE-SUBDIVISION
MCDANIEL PROPERTY
LOT 9
AND NON-BUILDABLE PRESERVATION PARCEL